

CITY OF GAINESVILLE
Office of the City Attorney

Memorandum
334-5011/Fax 334-2229
Box No. 46

TO: Mayor and City Commission

DATE: March 8, 1999
FIRST READING

FROM: Marion J. Radson, City Attorney

SUBJECT: Ordinance No. 0-99-26; Petition 215CPA-98PB
An ordinance of the City of Gainesville, Florida, amending Policy 2.1.1 of the Future Land Use Element of the City of Gainesville 1991-2001 Comprehensive Plan to establish minimum densities of 8 units per acre for the Residential Medium Density (currently 10-30 units per acre) and Residential High Density (currently 21-100 units per acre) land use categories, to exempt lots of a certain size from minimum density requirements in the Residential Medium and Residential High Density categories, and to allow single-family use in the Residential High Density category; providing directions to the city manager; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date.

Recommendation: The City Commission (1) approve the petition, and (2) adopt the proposed ordinance.

STAFF REPORT

During the preparation of the 1991-2001 Comprehensive Plan Evaluation and Appraisal Report (EAR) that was adopted on September 28, 1998, the City Commission asked staff to process amendments related to minimum density as soon as possible. The proposed amendments to the Future Land Use Elements, if approved, will reduce the minimum density requirements in the Residential Medium and Residential High Density categories to eight units per acre, exempt lots of certain sizes (less than or equal to 0.5 acre) from minimum density requirements, and provide for single family as an allowable use in the Residential High Density category.

It is anticipated that the proposed amendment to the minimum density requirements will provide for additional infill and redevelopment opportunities without adversely affecting the character of the neighborhood.

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Staff recommended that the Plan Board approve this petition. By a vote of 3-1, the Plan Board approved Petition 215CPA-98PB. Public notice was published in the *Gainesville Sun* on December 1, 1998. The Plan Board held a public hearing December 17, 1998.

CITY ATTORNEY'S MEMORANDUM

The proposed amendment to the Comprehensive Plan will be transmitted to the State Department of Community Affairs for written comment. Any comments, recommendations or objections of the State Department of Community Affairs must be considered at the second public hearing. The City Commission may then adopt or adopt with changes the proposed amendment to the Comprehensive Plan, or determine not to adopt a plan amendment.

Florida Statutes set forth the procedure for adoption of an amendment to the Comprehensive Plan. The second hearing will be held at the adoption stage of the ordinance and must be advertised approximately five (5) days after the day that the second advertisement is published.

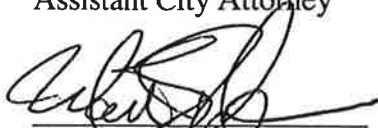
The Plan amendment will not become effective until the State Department of Community Affairs issues a final order determining the adopted amendment to be in compliance in accordance with the Local Government Comprehensive Planning and Land Development Regulation Act, or until the Administration Commission (Governor and Cabinet) issues a final order determining the adopted amendment to be in compliance.

Prepared by:



Patricia M. Carter
Assistant City Attorney

Approved and
Submitted by:



Marion A. Radson
City Attorney

MJR:PC:sw

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ORDINANCE NO. _____
0-99-26

An ordinance of the City of Gainesville, Florida, amending Policy 2.1.1 of the Future Land Use Element of the City of Gainesville 1991-2001 Comprehensive Plan to establish minimum densities of 8 units per acre for the Residential Medium Density (currently 10-30 units per acre) and Residential High Density (currently 21-100 units per acre) land use categories, to exempt lots of a certain size from minimum density requirements in the Residential Medium and Residential High Density categories, and to allow single-family use in the Residential High Density category; providing directions to the city manager; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date.

WHEREAS, the City Plan Board authorized the publication of notice of a Public Hearing that the text of the City of Gainesville 1991-2001 Comprehensive Plan be amended; and

WHEREAS, notice was given and publication made as required by law and a Public Hearing was then held by the City Plan Board on December 17, 1998; and

WHEREAS, pursuant to law, an advertisement no less than two columns wide by 10 inches long was placed in a newspaper of general circulation notifying the public of this proposed ordinance and of the Public Hearing to be held at the transmittal stage, in the City Commission Auditorium, City Hall, City of Gainesville, at least 7 days after the day the first advertisement was published; and

WHEREAS, pursuant to law, after the public hearing at the transmittal stage the City of Gainesville transmitted copies of this proposed change to the State Land Planning Agency; and

WHEREAS, a second advertisement no less than two columns wide by 10 inches

1 long was placed in the aforesaid newspaper notifying the public of the second Public
2 Hearing to be held at least 5 days after the day the second advertisement was published;
3 and

4 **WHEREAS**, the two Public Hearings were held pursuant to the published notices
5 described at which hearings the parties in interest and all others had an opportunity to be
6 and were, in fact, heard; and

7 **WHEREAS**, prior to adoption of this ordinance, the City Commission has
8 considered the comments, recommendation and objections, if any, of the State Land
9 Planning Agency;

10 **NOW, THEREFORE**, BE IT ORDAINED BY THE CITY COMMISSION OF
11 THE CITY OF GAINESVILLE, FLORIDA:

12 **Section 1.** Policy 2.1.1 of the Future Land Use Element of the City of Gainesville 1991-
13 2001 Comprehensive Plan is amended to read as follows:

14 *2.1.1 Residential Medium Density (~~8~~ 10 units per acre)*

15 This land use classification shall allow single-family and multi-family development at
16 densities from ~~8~~ 10 to 30 dwelling units per acre. Lots that are less than or equal to 0.5
17 acres in size shall be exempt from minimum density requirements. The land shown as
18 Residential Medium Density on the land use plan identifies those areas within the City of
19 Gainesville that, due to topography, soil conditions, surrounding land uses and
20 development patterns, are appropriate for single-family and medium intensity multi-
21 family development. Land Development Regulations shall determine gradation of density
22 and specific uses. Land Development Regulations shall specify criteria for the siting of

1 appropriate medium intensity residential facilities to accommodate special need
2 populations and appropriate community level institutional facilities such as places of
3 religious assembly, private schools, and libraries. Land Development Regulations shall
4 allow Home Occupations within certain limitations.

5 *Residential High Density (8 ~~21~~ - 100 units per acre)*

6 This land use classification category shall allow multi-family development at densities
7 from ~~8 21~~ to 100 dwelling units per acre. Lots that are less than or equal to 0.5 acres in
8 size shall be exempt from minimum density requirements. The land shown as Residential
9 High Density on the land use plan identifies those areas within the City of Gainesville
10 that, due to topography, soil conditions, surrounding land uses and development patterns,
11 are appropriate for high intensity multi-family development, and secondary retail and
12 office uses scaled to serve the immediate neighborhood. The intensity of secondary retail
13 and office use cannot exceed more than 20% of the residential floor area. Land
14 Development Regulations shall determine the gradations of density, specific uses,
15 percentage of floor area and maximum floor area appropriate for secondary uses. Single-
16 family shall be an allowable use. Land Development Regulations shall specify the
17 criteria for the siting of high intensity residential facilities to accommodate special need
18 populations and appropriate community level institutional facilities such as places of
19 religious assembly, private schools and libraries. Land Development Regulations shall
20 allow Home Occupations within certain limitations.

21 **Section 2.** The City Manager is authorized and directed to make the necessary changes in
22 maps and other data in the City of Gainesville 1991-2001 Comprehensive Plan, or

1 element, or portion thereof in order to fully implement this ordinance.
2 **Section 3.** If any section, sentence, clause or phrase of this ordinance is held to be invalid
3 or unconstitutional by any court of competent jurisdiction, then said holding shall in no
4 way affect the validity of the remaining portions of this ordinance.
5 **Section 4.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of
6 such conflict hereby repealed.
7 **Section 5.** This ordinance shall become effective immediately upon final adoption;
8 however, the amendment to the City of Gainesville 1991-2001 Comprehensive Plan shall
9 not become effective until the state land planning agency issues a final order determining
10 the adopted amendment to be in compliance in accordance with section 163.3184(9), or
11 until the Administration Commission issues a final order determining the adopted
12 amendment to be in compliance in accordance with section 163.3184(10).

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PASSED AND ADOPTED this _____ day of _____, 1999.

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PAULA M. DeLANEY
MAYOR

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ATTEST: Approved as to form and legality

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KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

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This Ordinance passed on first reading this _____ day of _____, 1999.

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This Ordinance passed on second reading this _____ day of _____, 1999.

Item No. 2

To: City Plan Board

Date: December 17, 1998

From: Planning Staff

Subject: Petition 215CPA-98PB, City Plan Board. Amend Policy 2.1.1 of the City of Gainesville 1991-2001 Comprehensive Plan, Future Land Use Element to establish minimum densities of 8 units per acre for the Residential Medium (10-30 units per acre) and Residential High Density (21-100 units per acre) future land use categories, to exempt lots of a certain size from minimum density requirements in the Residential Medium and Residential High Density categories, and to allow single-family use in the Residential High Density category.

Recommendation

Planning Division staff recommends approval of Petition 215CPA-98PB.

Explanation

The City Commission has requested that several of the needed amendments to the 1991-2001 Comprehensive Plan discussed in the Evaluation and Appraisal Report (EAR) that was adopted on September 28, 1998 be initiated now, at the beginning of the comprehensive update of the Plan. These proposed amendments to the Future Land Use Element, if approved, will reduce the minimum density requirements in the Residential Medium and Residential High Density categories to eight units per acre, exempt lots of a certain size (staff recommends less than or equal to 0.5 acres) from minimum density requirements, and provide for single family as an allowable use in the Residential High Density category. The current minimum densities in the Residential Medium and High future land use categories are, respectively, 10 units per acre and 21 units per acre. There presently are no minimum density exceptions in these future land use categories, and single family is presently not an allowable use in the Residential High Density category.

Minimum density requirements are an important component of the City's long-term commitment to increased residential density, promoting infill development, minimizing urban sprawl, and increased viability of mass transit. However, there have been problems associated with the minimum density requirements in the Residential Medium and Residential High land use categories. Development problems associated with substandard lots and developed sites where

demolition is not contemplated have become evident since establishment of the minimum density requirements. The minimum density requirements have been unrealistically high for many individual lots, particularly those smaller than 0.5 acres. The proposed reductions in required minimum density to eight units per acre for both the Residential Medium and High land use categories address these issues, as does the proposed exemption from minimum density requirements for parcels 0.5 acres or less in size. Eight units per acre is the density that is widely accepted as the minimum needed to support mass transit as a viable transportation option.

Another problem that has become evident is the exclusion of single-family as an allowable use in the Residential High Density category. Prior to adoption of the 1991-2001 Comprehensive Plan, single family was a permitted use in this future land use category. This has resulted in non-conforming status for single family houses in the Residential High category, and a consequent hardship for their owners, particularly with regards to financial institutions that are reluctant to re-finance non-conforming uses.

The proposed amendments also provide for additional infill opportunities and are supportive of the City's interest in infill development, redevelopment, and curtailment of sprawl.

Amendments to Policy 2.1.1

Residential Medium Density (~~8-10~~ -30 units per acre)

This land use classification shall allow single-family and multi-family development at densities from ~~8-10~~ to 30 dwelling units per acre. Lots that are less than or equal to 0.5 acres in size shall be exempt from minimum density requirements. The land shown as Residential Medium Density on the land use plan identifies those areas within the City of Gainesville that, due to topography, soil conditions, surrounding land uses and development patterns, are appropriate for single-family and medium intensity multi-family development. Land Development Regulations shall determine gradations of density and specific uses. Land Development Regulations shall specify criteria for the siting of appropriate medium intensity residential facilities to accommodate special need populations and appropriate community level institutional facilities such as places of religious assembly, private schools and libraries. Land Development Regulations shall allow Home Occupations within certain limitations.

Residential High Density (~~8-21~~ -100 units per acre)

This category shall allow multi-family development at densities from ~~8-21~~ to 100 dwelling units per acre. Lots that are less than or equal to 0.5 acres in size shall be exempt from minimum density requirements. The land shown as residential high density on the land use plan identifies those areas within the City of Gainesville that, due to topography, soil conditions, surrounding land uses and development patterns, are appropriate for high intensity multi-family development, and secondary retail and office uses scaled to serve the immediate neighborhood. The intensity of secondary retail and office use cannot exceed more than 20% of the residential floor area. Land Development Regulations shall determine gradations of density, specific uses, percentage

City Plan Board
Petition 215CPA-98PB
December 17, 1998

of floor area and maximum floor area appropriate for secondary uses. Single-family shall be an allowable use. Land Development Regulations shall specify the criteria for the siting of high intensity residential facilities to accommodate special need populations and appropriate community level institutional facilities such as places of religious assembly, private schools and libraries. Land development regulations shall allow Home Occupations within certain limitations.

Respectfully Submitted,



Ralph Hilliard
Planning Manager

RH:DM

2. **Petition 215CPA-98 PB** City Plan Board. Amend Policy 2.1.1 of the City of Gainesville 1991-2001 Comprehensive Plan, Future Land Use Element to establish minimum densities of 8 units per acre for the Residential Medium (10-30 units per acre) and Residential High Density (21-100 units per acre) future land use categories, to exempt lots of a certain size from minimum density requirements in the Residential Medium and Residential High Density categories, and to allow single-family use in the Residential High Density category.

Mr. Ralph Hilliard was recognized. Mr. Hilliard stated that Petitions 215CPA-98 PB and 216TCH-98 PB would be discussed together since they were related.

Mr. Dean Mimms was recognized. Mr. Mimms indicated that the petitions before the board were EAR based amendments. He explained that the EAR, as adopted by the City, was approved by the State Department of Community Affairs. He indicated that the City Commission had requested that the two amendments before the board go forward at the present time instead of later in the Comprehensive Plan process. He discussed the proposed changes in density in certain land use categories. Mr. Mimms stated that the City had a long-standing commitment to infill, fighting sprawl, and providing for the viability of mass transit through minimum density requirements. He discussed problems associated with the issues of density.

Dr. Fried asked if the petitions changed the maximum densities allowed.

Mr. Mimms replied that they did not. He suggested that the amendments would increase opportunities for infill development and re-development. Regarding Petition 216TCH-98 PB, Mr. Mimms stated that it involved text changes to implement the changes in Policy 2.1.1 of the Comprehensive Plan as proposed by Petition 215CPA-98 PB. He reviewed the changes proposed by Petition 216TCH-98 PB in detail.

There was discussion of accessory structures as opposed to accessory dwelling units.

Vice-Chair Guy asked how the figure of eight dwelling units per acre was determined.

Mr. Mimms explained that it was a recognized minimum threshold for mass transit.

There was discussion of the number of lots that would be affected by the proposed changes.

Vice-Chair Guy opened the floor to public comment.

Mr. Jim Meehan was recognized. Mr. Meehan indicated that he supported the petition.

Mr. Robert Pearce was recognized. Mr. Pearce indicated that he supported the petition. He discussed some of the details of the petitions and accessory dwelling units. He cited concerns about the limits of setbacks on smaller lots.

Vice-Chair Guy closed the floor to public comment.

Mr. McGill discussed accessory dwelling units and noted that the issue was not before the board. He explained that the issue of accessory dwelling units would be very significant when it came up. He indicated that he believed the petition before the board would solve some of the problems in older neighborhoods.

Dr. Fried made the motion to approve Petition 215CPA-98 PB and 216TCH-98 PB.

Mr. McGill seconded the motion.

Vice-Chair Guy indicated that, while he agreed with the principles and goals of the petitions, it appeared to be a blanket solution. He discussed problems of the lack of density in areas where it was most needed, around the University of Florida. He pointed out that the densities were put in place by a Comprehensive Plan process and the petitions appeared to be taking a step back from some of the goals of that plan. Regarding the problem of single-family in higher density zoning, he suggested that they should be resolved on a case-by-case basis.

<u>Motion By:</u> Dr. Fried	<u>Seconded By:</u> Mr. McGill
<u>Moved to:</u> Approve Petition 215 CPA-98 PB.	<u>Upon Vote:</u> Motion Carried 3-1 Yeas: McGill, Carter, Fried Nays: Guy

3. **Petition 216TCH-98 PB** City Plan Board. Amend the City of Gainesville Land Development Code to establish a minimum density of 8 units per acre in the RMF-6 (10-15 du/a), RMF-7 (14-21 du/a), RMF-8 (20-30 du/a), RH-1 (20-43 du/a) and RH-2 (44-100 du/a) residential districts, and add single-family dwelling as a use by right in the RH-1 and RH-2 districts .

Petition 216TCH-98 PB was discussed with Petition 215CPA-98 PB.

<u>Motion By:</u> Dr. Fried	<u>Seconded By:</u> Mr. McGill
<u>Moved to:</u> Approve Petition 216TCH-98 PB.	<u>Upon Vote:</u> Motion Carried 3-1 Yeas: McGill, Carter, Fried Nays: Guy